

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 682 OF 2007

Shankar K. Shettigar ..Petitioner

Vs.

Pushpa S. Shettigar and anr. ..Respondents

Mrs. Sucharita Patra for petitioner.

Mr. Anant B. Shinde for respondent no.1.

Mr. S.R. Shinde, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : July 24, 2007.

P.C.:

1. Heard the learned counsel for the petitioner who has filed Criminal Revision Application No. 596 of 2006 before the Sessions Court at Mumbai challenging the order of process issued against him in Criminal Case No. 1142/S/2000 and in the said revision application Misc. Application No. 196 of 2007 was filed before the learned Principal Judge of the Sessions Court praying for transfer of Criminal Revision Application No. 596 of 2006 to the file of his Honour Judge Shri W.K.Kanbarkar. Said application

has been rejected by the learned Principal Judge on 15/2/2007 and hence this petition under Article 227 of the Constitution.

2. It was mainly contended by the learned counsel for the petitioner-applicant that the revision was part heard and, therefore it ought to be placed before His Honour Judge Shri W.K. Kanbarkar even though his assignment was subsequently changed. The learned Principal Judge noted that the revision had appeared for the first time before Shri W.K. Kanbarkar on 15/2/2006 and, thereafter it was adjourned from time to time. It was heard on 20/10/2006 and the roznama indicated that the Advocate for the applicant was absent and later on he remained present and his arguments were partly heard. The applicant had sought adjournment on the ground that the learned Advocate was to attend the condolence meeting and by consent the matter was adjourned to 9/11/2006. The roznama of the case was perused by the learned Principal Judge and he recorded a finding that he did not see any reason to reassign the matter to Shri W.K. Kanbarkar who was taking the BMC matters.

3. The reasoning given by the learned Principal Judge cannot be termed as perverse or grossly erroneous and in any case the litigant has no right to say that his case be placed before a particular Judge. The scheme of the Cr.P.C. does not provide for such a right and even if the revision was part heard, it is not necessary that it must be continued to be heard by the very same learned Judge even though his assignments go on changing as per the orders passed by the learned Principal Judge. The challenge to the impugned order is, therefore, misconceived and it must fail at the threshold.

4. Petition is rejected summarily.

(B.H. Marlapalle, J.)